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U. S. DISTRICT COURT, D. C.

ON FILED

Supreme Court of the United States

October Term, 1964

No. 3111

DEPARTMENT OF MENTAL HYGIENE OF THE  
STATE OF CALIFORNIA, Petitioner,

v.

EVELYN KIMMEL, Administratrix of the Estate of  
ELEANOR GREEN VANCE, Respondent.

On Writ of Certiorari to the Supreme Court of the  
State of California

Motion for Leave To File a Brief as Amicus Curiae for  
the National Association for Retarded Children, Inc.  
and the American Orthopsychiatric Association

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IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1964

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No. 111

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DEPARTMENT OF MENTAL HYGIENE OF THE  
STATE OF CALIFORNIA, *Petitioner*,

v.

EVELYN KIRCHNER, Administratrix of the Estate of  
ELLINOR GREEN VANCE, *Respondent*.

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On Writ of Certiorari to the Supreme Court of the  
State of California.

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**Motion for Leave to File a Brief as Amicus Curiae**

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The National Association for Retarded Children,  
Inc., and The American Orthopsychiatric Association  
hereby respectfully move for leave to file a brief as a  
*amicus curiae* in support of respondent in the above  
captioned matter.

Respondent does not oppose the motion and does not  
consent solely because respondent does not desire to

concede that the issues before the Court are as broad as contended by the applicants. Petitioner does not consent but likewise will not oppose the motion.

The National Association for Retarded Children, Inc., is a voluntary organization represented in all 50 states by nearly 1,000 state and member units. Membership includes parents of retarded children, professional persons and others. The Association is dedicated to promote the welfare of retarded persons of all ages; to foster the advancement of research, treatment, services and facilities in the field of mental retardation and to develop broader public understanding of the problem of mental retardation. It serves as a clearing-house for gathering and disseminating information regarding the mentally retarded.

The American Orthopsychiatric Association is one of the leading organizations in the United States concerned with problems of mental disorder and abnormal behavior. As of January 1, 1964, the Association had 2,386 members including 905 psychiatrists, 574 psychologists, 745 psychiatric social workers, and 157 members drawn from related fields of anthropology, sociology, education and allied professions. The Association seeks to coordinate and integrate the activities of specialists in medicine, psychiatry, clinical psychology, psychiatric social work, and other behavioral scientists who are concerned with normal and abnormal behavior. The organization has as one of its objectives the fostering of research. It has played a prominent role in the development of the child guidance clinic movement throughout the country. The Association publishes a learned journal, "The American Journal of Orthopsychiatry," now in its thirty-fourth year of publication.

Each of the applicants is deeply interested in the determination of the controversy before the Court. The liability of a citizen to pay for the costs of institutionalization of a mentally retarded or mentally ill relative poses grave problems of national concern of particular significance to the applicants because of their peculiar interests in the advancement of research, treatment, services and facilities for the mentally retarded and the mentally ill.

Respondent in his Reply to the Petition for a Writ of Certiorari and orally to counsel for the applicants has indicated his belief that the narrow issue of the liability of a child to pay the costs of the hospitalization of a mentally ill parent who is dangerous is the sole question before the Court. His brief will be confined to this issue.

The *amicus curiae* briefs of the several states who have been granted leave to appear in this case support the position of the applicants that issues of greater breadth and significance must be considered in order to resolve the instant controversy. The assertions of fact and law and the notions of public policy enunciated in these briefs will not be the subject of full comment by respondent because of his position that only the narrow issue is before this Court.

Applicants seek leave to file a brief *amicus curiae* in order to present to the Court a short rendition of the facts indicating the dimensions of the problems of mental retardation and mental illness in the United States and additional reasons supporting the conclusion of the Supreme Court of California that the California statute imposing liability upon a child

to pay for the costs of hospitalization of a mentally ill parent is unconstitutional.

A brief containing such a presentation is tendered with this motion.

Respectfully submitted,

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January 1965